

## REMARKS

### I. PENDING CLAIMS AND SUPPORT FOR AMENDMENTS

Upon entry of this amendment, claims 88-94 will be pending in this application. Claim 89 has been withdrawn from consideration by the Examiner. Claims 88-93 stand rejected, and claim 94 stands objected to.

Applicants have amended claims 88, and 90-93 to recite that at least one of the hydroxy moieties in Formula IV is substituted by a moiety other than  $\epsilon$ -oxycaproyl. Support for this can be found in the specification at page 12, lines 16-19 and page 13, line 9 and line 20. *See In re Johnson*, 194 USPQ 187 (CCPA 1977). No new matter has been added. Applicants have also amended claims 90 and 91 to make them consistent with claim 88, from which they depend.

### II. CLAIM OBJECTIONS

In paragraph 3 of the Office action, the Examiner has objected to claims 90 and 91 as being of improper form for failing to further limit claim 88. Applicants have amended these claims to delete the terminology “alkanoyl having 2 to 6 carbon atoms.” Accordingly, the claims properly depend from claim 88, and the rejection should be withdrawn.

### III. ANTICIPATION REJECTION

In paragraph 5 of the Office action, the Examiner has rejected claims 88 and 90-93 under 35 U.S.C. § 102(b) as anticipated by Hatakeyama et al. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Hatakeyama et al. is a research publication that discloses synthesis of biodegradeable polyurethanes prepared from sucrose-based polylactones. The sucrose-based polylactones are identified in the abstract of the publication provided by the Examiner; the polyurethanes produced from these polylactones are identified in Figure 4 of the complete article. In both structures, every sucrose hydroxy moiety is esterified by an  $\epsilon$ -oxycaproic acid moiety. By the present amendment, Applicants have excluded structures where every sugar hydroxy moiety is esterified by an  $\epsilon$ -oxycaproic acid moiety. Accordingly, the structures disclosed by Hatakeyama et al are not within the scope of Applicants' claims, and Hatakeyama et al. does not anticipate the claims. The rejection should therefore be withdrawn.

Moreover, while Hatakeyama et al. report the results of some mechanical testing of polyurethane sheets prepared using their sucrose based polycaprolactones, they do not disclose or suggest any utilities for these sheets, or any other utilities for the polycaprolactones. Accordingly, Hatakeyama et al. cannot form the basis for an obviousness rejection under 35 U.S.C. § 103. *See In re Stemniski*, 170 USPQ 343 (CCPA 1971).

Since the claims are now in condition for allowance, an early notification to that effect is earnestly solicited.

The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Order Account No. 11-0855.

Respectfully submitted,



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